



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/817,435	04/05/2004	Erling W. Johansen	JOH-001	1290
21884	7590	05/04/2006	EXAMINER	
WELSH & FLAXMAN LLC 2000 DUKE STREET, SUITE 100 ALEXANDRIA, VA 22314			DOOLEY, JAMES C	
			ART UNIT	PAPER NUMBER
			3634	

DATE MAILED: 05/04/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/817,435	Applicant(s) JOHANSEN, ERLING W.	
	Examiner James C. Dooley	Art Unit 3634	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 February 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 05 April 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

This Final Office Action is mailed in response to amendment filed February 10, 2006, wherein claims 1-18 were presented as original and new claims 19-20 were introduced.

Election/Restrictions

Applicant's election with traverse of claims 1-20 in the reply filed on February 10, 2006 is acknowledged. The traversal is on the ground(s) that independent claim 1 does not limit the invention to only one compartment. This is found persuasive. Claims 1-20 have been examined in this office action.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 4, 11, 14, 15, and 17 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 4 recites the limitation "the large diameter" in line 2. There is insufficient antecedent basis for this limitation in the claim.

Claims 11, 14, 15, and 17 recite "the compartment." It is unclear if this is intended to refer to all compartments or just one.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-20 are rejected under 35 U.S.C. 102(b) as being anticipated by Krivec (US 5,535,881).

With respect to claims 1, 10, 19 and 20, Krivec discloses a plurality of interconnected compartments (50), each compartment having sidewalls (40) and an open upper end (top). It is seen that the first sidewall of one compartment would be the second sidewall of the adjacent compartment, thereby making the compartments interconnected. To the further clarify, in this office action the first sidewall will be referred to as “40” while the second sidewall will be referred to as 41 (the rear extension of the first sidewall). Within the compartment (50) a resilient biasing member (35) extends away from the first sidewall (40) towards the second sidewall (41) such that an article (25) is held between the biasing member (35) and the second sidewall (41).

With respect to claims 2 and 11, as shown in figure 4 the compartment (50) is rectangular shaped and has first (40) and second (41) sidewalls.

With respect to claims 3 and 12, the biasing member (35) is coupled to the top end (45) of the first sidewall (40). The biasing member uses it's resilient energy to hold the articles (25) in a fixed orientation between the biasing member (35) and the second sidewall (41).

With respect to claims 4 and 13, the biasing member (35) is seen to have a narrow upper portion and a wider lower portion (36) at the free end. A shape having a wide and narrow portion is considered substantially teardrop shaped.

With respect to claims 5 and 14, the second end of the biasing member is secured to the first sidewall (40) adjacent an upper end (45) and extends across the compartment (50) toward the second lateral sidewall (41).

With respect to claim 6 and 15, as shown in figure 1 the compartment (50) is rectangular shaped having flat top (45) and is therefore shaped and dimensioned to sit upon a horizontal support surface.

With respect to claim 7 and 16, although the biasing member (35) does not have smooth curves it is considered to be substantially teardrop shaped, by having wider (36) and narrower (35) portions.


With respect to claims 8, 9, 17, and 18, Krivec discloses all components can be made of plastic (Col. 2 lines 54-56).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to James C. Dooley whose telephone number is 571-2721679. The examiner can normally be reached on M-F 9-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Chilcot can be reached on 571-272-6777. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



James C Dooley
Examiner
Art Unit 3634

April 27, 2006



RICHARD E. CHILCOTE, JR.
SUPERVISORY PATENT EXAMINER